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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,096

07/07/2003

Hajime Watabe

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06/16/2006

OLIFF & BERRIDGE, PLC  
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EXAMINER

EPSHTEYN, ALEXANDER

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/613,096

Applicant(s)

WATABE ET AL.

Examiner

Alex Epshteyn

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3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/29/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The objection of the title of the invention has been withdrawn due to the amendment by Applicant.

### ***Claim Rejections - 35 USC § 103***

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (US Patent 5,486,001) and further in view of Ota (US Patent 6,001,013).

Regarding claims 1, 15, and 17, Baker teaches of a training and gaming apparatus comprising:

- A storage section for storing a predetermined assigned movement (see column 2, lines 52 – 53)
- A way to detect a movement of a player (see column 2, lines 50 – 51)
- A way to compare the detected movement of the player and the predetermined assigned movement stored (see column 2, lines 54 – 56) on the basis of a direction, or speed (see column 3, lines 25 – 26).

Baker, however, lacks a game level setting section for setting a game level of difficulty, wherein at least one of a tempo of the assigned movement, a type of the assigned movement, and the similarity is changed based on the game level of difficulty.

Ota, in the same field of endeavor, teaches of a dancing game with a level setting device for setting a basic movement level on the basis of the performance of the player. It would be obvious for one skilled in the art to have modified the teachings of Baker and incorporate the teachings of Ota so that the apparatus as taught by Baker would have a

better training element so that the level of difficulty of performing a correct move would be increased as the participant becomes better at the movements.

In regards to claim 4, Baker teaches of specifying the movement of the player to be compared to a movement of the predetermined assigned movement specified by the game on a basis of direction and speed (see column 3, lines 14 – 26). The apparatus as taught by Baker, further teaches of displaying a decision according to the comparison between said movement of the player and said predetermined assigned movement.

In regards to claim 6 - 8, 16, and 18, Baker teaches of a game apparatus in which a comparison is made between the movement of the player and a movement of a predetermined assigned movement corresponding to detection regions (see column 2, lines 16 – 25). The comparison of the movements is thus decided by considering the movement of the player over a plurality of detection regions.

In regards to claim 10, Baker teaches of a game apparatus where the comparison decision changes the decided comparison according to a predetermined condition detected by the movement of the player (see column 2, lines 36 – 45). In the case of the apparatus of Baker, as the movement of the player changes, the comparison mechanism changes the visual image signals when compared to the said predetermined condition.

In regards to claim 11 - 13, Baker teaches of a game apparatus where the detection region is changed according to a predetermined condition detected by the movement of the player (see column 3, lines 14 – 26). In the case of the apparatus of Baker, if the

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arm length of a particular player is shorter than the arm length of the previous player, the detection region of the apparatus will change to accommodate the shorter player and the movements detected by the movement detection of the game. Thus, the predetermined condition relates to the body shape and motions of the player detected by the movement detection section.

In regards to claim 14, Baker teaches of a chip, which streams pixel data into a microprocessor (see column 5, lines 60 – 67), which is what an artificial retina chip does.

Regarding claims 2, 3, and 5, Baker teaches of a game apparatus where a comparison is made between the movement of the player and the predetermined assigned movement (see column 2, lines 54 – 56). Baker, however, lacks a timing element for comparing the movements on a basis of a predetermined time, for every time of a predetermined movement. Ota, in the same field of endeavor, teaches of a dancing game where a beat is displayed on the game and a player must make a corresponding dance movement within the scope of a predetermined time (see column 2, lines 39 – 50).

Ota further teaches of the timing of the dance movement to be indicated by a visual timing decision where a score will increase if the player movement is found to be the same as the predetermined assigned movement and is performed within the predetermined assigned time (see column 3, lines 53 – 56).

It would have been obvious to one skilled in the art at the time the invention was made to have modified the teachings of Baker and incorporate the teachings of Ota so

that the apparatus as taught by Baker would have a more competitive element as a dance game in that the dance maneuver of the game would have to be performed within a specified time. This would create a more challenging and attractive way to play the game.

Regarding claim 9, Baker teaches of a game apparatus, which comprises a region by region comparison of the player movement and the predetermined assigned movement (see column 2, lines 16 – 25). Baker, however, lacks a display section for displaying a decision according to the comparison of the said movement of the player and the said predetermined assigned movement. Ota, in the same field of endeavor, teaches of a dance game where a predetermined assigned movement in a particular region is displayed to the player and a comparison of the predetermined assigned movement to the input of the player in all regions of the predetermined assigned movement (see column 7, lines 62 - 67) and the score is adjusted if the correct dance move is performed by the player in each region (see column 8, lines 1 – 4), thereby providing a visual display of a correct dance move by the player in each region.

It would have been obvious to one skilled in the art at the time the invention was made to have modified the teachings of Baker and incorporate the teachings of Ota so that the apparatus as taught by Baker would have a more interesting operation as a dance game so that all regions of dance captured by the Baker apparatus would be compared to the predetermined assigned movement and the result of which would be broadcast to the player.

***Response to Arguments***

Applicant's arguments filed 3/29/2006 have been fully considered but they are not persuasive.

As discussed above, Baker in view of Ota teach of a game apparatus for executing a predetermined game that includes a game level setting section for setting a game level of difficulty.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**XUAN M. THAI**  
**SUPERVISORY PATENT EXAMINER**

*TC3700*